



Unrelated Business Income Tax and Tax-Exempt Organizations

Presenters



Al Page



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Presentation topics

- Unrelated Business Income Tax (UBIT)
- Why UBI can jeopardize tax-exempt status
- UBI's three tests
- Common types of UBI activities
- UBI exceptions and exclusions
- Principal form used to report UBI
- IRS resources



Important publications

- **Publication 598**, *Tax on Unrelated Business Income of Exempt Organizations*
- **Publication 3079**, *Tax-exempt Organizations and Gaming*
- Both publications are available on IRS.gov



UBI

- The tax on UBI applies to most organizations exempt from tax under section 501(a) of the IRC.
- UBI is income from a regularly carried on trade or business not substantially related to the organization's exempt purpose.
- The organization's activity must meet all three tests to be classified as UBI activity.



Trade or business?

- The term trade or business includes any activity carried on for the production of income from selling goods or from performing services.
- An activity doesn't lose its identity as a trade or business just because it's carried on within a larger group of similar activities that may be related to the organization's exempt purpose.



Regularly carried on?

- A business activity is considered to be regularly carried on if it shows a frequency and continuity, and is conducted in a way similar to comparable businesses of nonexempt organizations.
- The normal time span of the activity as conducted by the exempt organization is determined by comparing its time span with that of the same activity conducted by a nonexempt entity.



Not related to the exempt purpose?

- To be substantially related to an organization's exempt purpose, an entity must contribute importantly to accomplishing that activity.
- Just because the organization uses the income from the activity to further its charitable purposes, doesn't make the activity substantially related to its exempt purposes.

Advertising

- Many organizations sell advertising in their publications, programs, or other forms of public communication.
- Income from this sale of advertising is an unrelated trade or business income.
- This includes the sale of advertising space in weekly bulletins, magazines, journals, newsletters, or even on the organization's website.



Sale of merchandise

- This can be an unrelated business activity if the items being sold don't have a substantial relationship to the organization's exempt purposes.
- Selling products that result from the performance of an exempt function is not an unrelated trade or business if the product is sold in the same condition it is in when the exempt functions are completed.



Provision of services

- Sometimes an organization will provide services to individuals or other organizations and such services do not substantially further the organization's exempt purpose.
- The payments received for these services may be unrelated business income.



Leases

- Our final example of common activities that may generate UBI concerns leases or rental agreements.
- What if an organization enters into a lease with a third party who operates the organization's parking lot and pays rent to the organization – is the rental income taxable?
- For now the answer is: *It depends.*



Unrelated trade/business exceptions

- The first exception applies to activities conducted by an exempt organization's volunteers.
- Any trade or business in which substantially all the work is performed for the organization without compensation is not an unrelated trade or business.
- See **Publication 3079**, *Tax-exempt Organizations and Gaming*



Convenience

- This exception applies to section 501(c)(3) organizations that operate a trade or business for the convenience of members, students, patients, employees, or officers.
- An example would be an exempt university that operates laundry facilities available to its students residing in its dormitories.



Sale of donated goods

- A trade or business that sells merchandise, substantially all the organization received as gifts or contributions, is not an unrelated trade or business.
- A thrift shop operated by a tax-exempt organization that sells donated clothes and books to the general public, and the proceeds of which go to the exempt organization, is not an unrelated trade or business.



Distribution of low-cost articles

- For tax years beginning in 2014, the cost of the item to the organization that distributes the item has to be \$10.40 or less in order to meet this exception.
- For tax years beginning in 2015, it's \$10.50 or less.

Trade shows

One of the purposes of the organization in sponsoring the activity must be either:

1. Promoting and stimulating interest in, and demand for, the products and services of that industry.
2. Educating the persons in attendance regarding new products and services, or new rules and regulations affecting the industry.



Sponsorship

- Under the sponsorship exception, soliciting and receiving qualified sponsorship payments is not considered an unrelated trade or business.
- Use or acknowledgment does not include advertising the sponsor's product or services.



Bingo

- Income derived from bingo games may be eligible for a special tax exemption
- In addition to the exception regarding uncompensated volunteer labor if the bingo game is the traditional type of bingo, it's legal under state and local law, and it's not ordinarily carried out on a commercial basis.



UBI exclusions

- The IRC also provides certain exclusions and deductions from the calculation of the UBIT.
- It's important to note that these exclusions may not apply to 501(c)(7) social club organizations.



Interest, dividends, annuities, etc.

- All dividends, interest, annuity payments with respect to security loans, income from notional principal contracts, and other income from an exempt organization's ordinary and routine investments that the IRS determines are similar to these types of income are excluded in computing UBI.



Royalty income

- Royalties are also excluded in computing UBI.
- To be considered a royalty, a payment must relate to the use of a valuable right.
- Payments for trademarks, trade names, or copyrights are ordinarily considered royalties.



Rental income

- Rents from real property, including elevators and escalators, are excluded in computing UBI unless the property is debt financed.
- Rents from personal property are not excluded. However, special rules apply to mixed leases – that is, leases of both real and personal property.



Gains/losses from sale of property

- Gains or losses from the sale, exchange, or other disposition of property are excluded from UBI.
- Stock in trade or other property of a kind that would be included in inventory if on hand at the close of the tax year, property held primarily for sale to customers in the ordinary course of a trade or business is not included in this exclusion.



Form 990-T

- The Form 990-T is used to report unrelated business income and to pay the associated tax on that income.
- If an exempt organization has unrelated business income of more than \$1,000, it must file Form 990-T.
- The form is four pages long – pages three and four are schedules.



UBI deductions

- UBIT is similar to the calculation of other income taxes in that UBI can be offset by related expenses.
- An exempt organization can take a net operating loss deduction in calculating its unrelated business taxable income.
- An exempt organization is also allowed a deduction from UBI for charitable contributions it makes.



NOLs

- This is a net loss from an unrelated business activity.
- The NOL deduction is allowed in computing UBI
- The NOL for any tax year, the carry-backs and carryovers, and the NOL deduction are without taking into account any amount of income or deduction that's been specifically excluded in computing UBTI.



Charitable contributions

- An exempt organization can deduct charitable contributions when computing its UBI, whether or not the contributions are directly connected with the unrelated business.
- The contribution must be paid to another qualified organization.
- An EO subject to the UBI tax is allowed a deduction for charitable contributions of up to 10 percent of its UBI computed without regard to the deduction for contributions.



Form 990-T reporting

- Any exempt organization that has gross income of \$1,000 or more for any taxable year from the conduct of any unrelated trade or business is required to file Form 990-T.
- The return is due on the 15th day of the fifth month following the end of the organization's accounting period.
- An organization that operates on a fiscal calendar year needs to file the Form 990-T by May 15th of the following year.




Public inspection requirements

- Under IRC Section 6104(d), a Section 501(c)(3) organization that files Form 990-T must make its entire annual exempt organization business income tax return, including amended returns, available for public inspection.
- The Form 990-T and related schedules must be made available for public inspection for a period of three years from the date the Form 990-T is required to be filed, including extensions.




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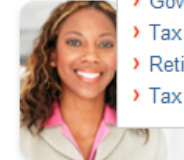
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Prepare or file returns for free via software or online fillable forms.

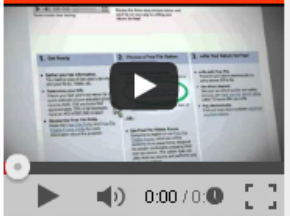
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31


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[Charitable Organizations](#)




- [Churches & Religious Organizations](#)
- [Political Organizations](#)
- [Private Foundations](#)
- [Other Non-Profits](#)
- [Contributors](#)

Charities & Non-Profits Topics

- [A-Z Index](#)
- [Search for Charities](#)
- [Calendar of Events](#)
- [Charity and Nonprofit Audits](#)
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Page Last Reviewed or Updated: 2012-08-01

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A-Z Site Index

Subscriptions
Language
Information For...

Filing
Payments
Refunds
Credits & Deductions
News & Events
Forms & Pubs
Help & Resources
for Tax Pros

Charitable Organizations
Churches & Religious Organizations
Political Organizations
Private Foundations
Other Non-Profits
Contributors

Charities & Non-Profits Topics

- A-Z Index
- Search for Charities
- Calendar of Events
- Charity and Nonprofit Audits
- Free e-Newsletter
- Online Training
- Life Cycle


Charities and Nonprofits A-Z Site Index

(A-E)
(E-J)
(K-O)
(P-T)
(U-Z)

A

- [Abusive Tax Avoidance Transactions](#)
- [Academic Institutions Initiative](#)
- [Accountable Care Organizations \(ACOs\) and the Medicare Shared Savings Program \(MSSP\)](#)
- [Action Organization](#)
- [Advance Approval of Grantmaking Procedures](#)
- [Advance Ruling Process Elimination](#)
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 - [Affordable Care Act Tax Provisions](#)
 - [News Releases, Multimedia, Published Guidance](#)
- [Agricultural and Horticultural Organizations - 501\(c\)\(5\)](#)
- [Annual Electronic Filing Requirement of Small Exempt Organizations \(ePostcard\) see e-Postcard](#)
- [Annual Information Return see filing requirements](#)
- [Annual Reports and Work Plans](#)
- [Appeals Office Consideration](#)
 - [Publication 892, Exempt Organizations Appeal Procedures for Unagreed Issues](#)
 - [Fast Track Settlement of Examinations Issues](#)
- [Appeals to Courts](#)
- [Application Process](#)
 - [Applying for Tax-Exemption: An Overview StayExempt.org minicourse](#)
 - [Expediting Application Processing](#)
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 - [Form 1023 Instructions](#)
 - [Form 1024, Application for Exemption Under Section 501\(a\)](#)
 - [Form 1024 Instructions](#)
 - [Mailing Address for Applications for Exemption](#)
 - [Publication 557, Tax Exempt Status for Your Organization](#)
 - [Publication 4220, Applying for 501\(c\)\(3\) Tax-Exempt Status](#)
 - [Tax Law Compliance Before Exempt Status is Recognized](#)
 - [Where is My Application?](#)
- [Auctions](#)
- [Audits of Exempt Organizations see also Examinations](#)
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[Political Organizations](#)

[Private Foundations](#)

[Other Non-Profits](#)

[Contributors](#)

EO Select Check


Exempt Organizations Select Check is an on-line search tool that allows users to search for and select an exempt organization and check certain information about its federal tax status and filings. It consolidates three former search sites into one, providing expanded search capability and a more efficient way to search for organizations that:

- Are eligible to receive tax-deductible charitable contributions (**Publication 78 data**). Users may rely on this list in determining deductibility of their contributions (just as they did when Publication 78 was a separate electronic publication rather than part of *Select Check*).
Updated data posting date: 2-9-2015
- Have had their tax-exempt status automatically revoked under the law because they have not filed Form 990 series returns or notices annually as required for three consecutive years (**Auto-Revocation List**).
Updated data posting date: 2-9-2015
- Have filed a Form 990-N (**e-Postcard**) annual electronic notice. (Most small exempt organizations whose annual gross receipts are normally \$50,000 or less are required to electronically submit Form 990-N, unless they choose instead to file a completed Form 990 or Form 990-EZ.)
Updated data posting date: 2-23-2015

[A tip for organizations and donors about the timing of data updates.](#)

In addition to searching for a particular organization, users may download a complete list of each of the three types of organizations through *Exempt Organizations Select Check*.

Exempt Organizations
Select Check Tool





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Churches & Religious Organizations
Political Organizations
Private Foundations
Other Non-Profits
Contributors

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Upcoming Events

IRS Exempt Organizations offers specialized education programs to help exempt organizations understand their tax responsibilities. The list below provides information about events on exempt organizations topics, and links to detailed information, including registration websites, for scheduled programs.

[Webinars](#) - EO tax law programs from your computer
Register now for free webinar on churches and religious organizations - July 26, 2012.
[Phone forums](#) - Free phone forums featuring IRS employees discussing exempt organizations topics.
Register now for phone forum on exempt organizations and gaming - July 18, 2012.
[Workshops](#) - Small and Medium-Sized Exempt Organizations - face-to-face programs on exempt organizations tax issues
[Conferences](#) - presented or sponsored by IRS Exempt Organizations
[Nationwide Tax Forums](#) - the latest word from IRS leadership and other experts in the exempt organizations tax law field

Additional information

- [Materials from past events](#)
- On-line educational programs available anytime at www.stayexempt.irs.gov

Page Last Reviewed or Updated: 2012-08-02

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Payments

Refunds

Credits & Deductions

News & Events

Forms & Pubs

Help & Resources

for Tax Pros

Charitable Organizations

Churches & Religious Organizations




Political Organizations

Private Foundations

Other Non-Profits

Contributors

Current Edition of Exempt Organizations Update



EO Update is a periodic newsletter with information for tax-exempt organizations and tax practitioners - attorneys, accountants, and others - who represent them, from Exempt Organizations (Tax-Exempt and Government Entities) at the IRS.

Issue	Highlights	Release Date
2013-8	Inside This Issue <ol style="list-style-type: none">1. Reminder: Calendar year Form 990 series returns due by May 152. Executive Summary updated in EO's Final Report on Colleges and Universities	5/3/2013

Browse the newsletter [archive](#) or [subscribe](#) to future editions.

Page Last Reviewed or Updated: 03-May-2013



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163 Accessibility OFF

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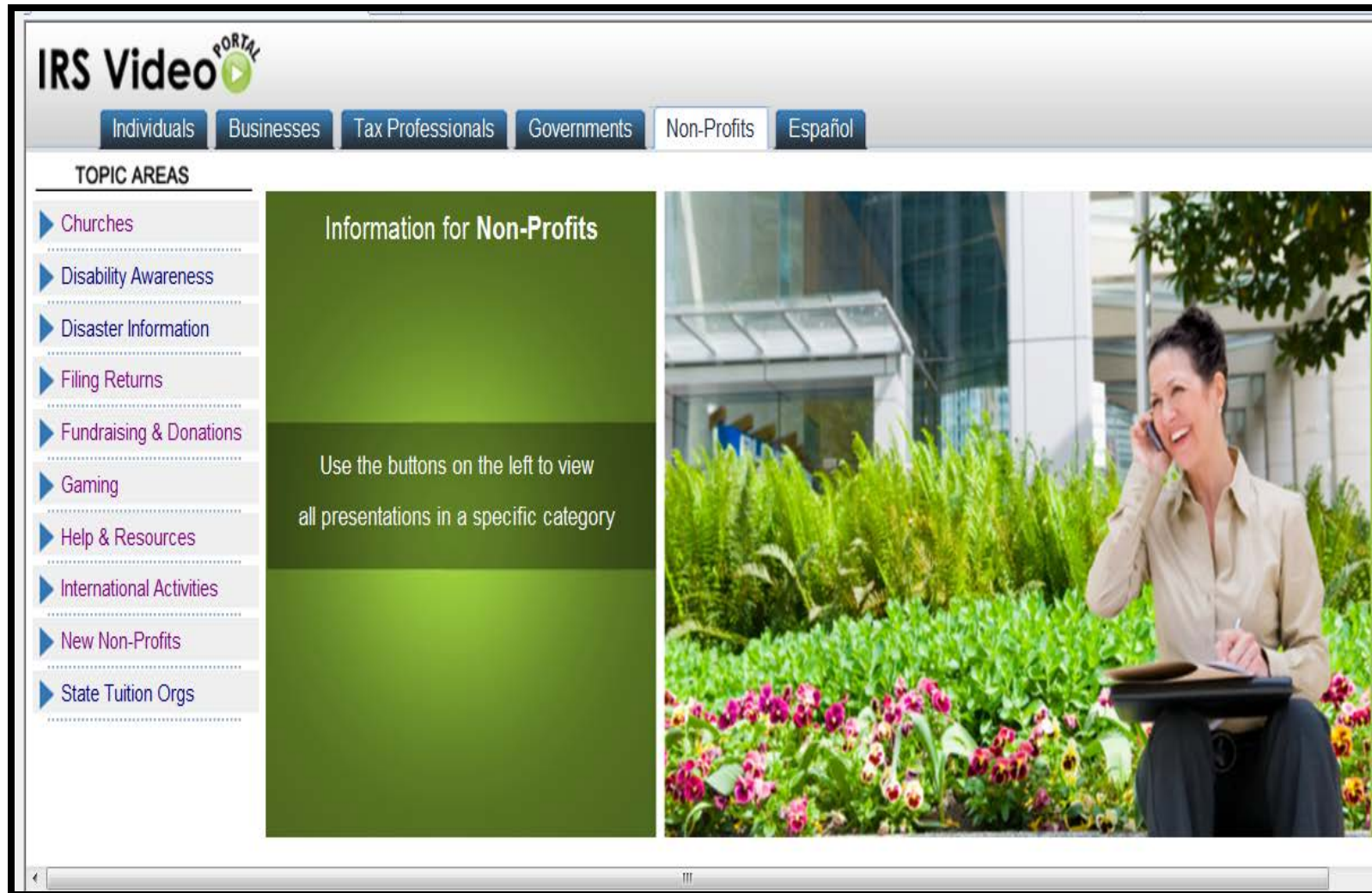
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www.irs.gov/charities

Web-Based Training Program

For 501(c)(3) organizations:

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